

**UNITED STATES BANKRUPTCY COURT
Eastern District of Virginia
Richmond Division**

IN RE: Verna Ndiaye

Case number
19-32975KRH
Chapter 13

Debtor

Pennymac Loan Services

Movant

vs

Verna Ndiaye

Respondent

RESPONSE TO MOTION OF PENNYMAC LOAN SERVICES

COMES THE DEBTOR by her counsel and files this response to the Motion for Relief from Stay filed by Pennymac Loan Services and states:

1. The allegations of paragraph 1-6 are admitted.
2. Strict proofs of the allegations in paragraphs 7 and 11 are demanded.
3. The debtor acknowledges a default in post-petition mortgage payments, however pursuant to at least five notices of forbore payments filed due to the Covid pandemic, payments from June 2020 through and including September 2021 were forborne by the movant.
4. Despite such forbearance, the debtor made partial or full payments during those months. Per the debtor's records, total missed payments on the Note are approximately as alleged in the motion. That is that of 19 payments due from June

2020 thru November 2021, of approximately \$900.00 she is perhaps 2.5 months behind.

5. Per numerous conversations with the Movant, debtor was advised that the forborne payments would be resolved by agreement, most likely by adding such payments to the end of the Note term. No such formal agreement has been communicated to or offered to the debtor.
6. Despite the hardships of the last 18 months (debtor lost her employment for a time and had two eye surgeries requiring expense and additional lost time (before losing her employment)), debtor has made partial or full payments to the movant and relied on the communications with the movant that the Covid issues would be resolved. Additionally the debtor has requested and obtained a waiver of the real property taxes due the County of Henrico due to her age. The movant has declined to refund the escrowed funds normally due the debtor and has instead indicated its intention to apply same (approximately \$750) to the forborne arrearage. Such application, approval and notice from the County has occurred in the last two weeks and it is unclear whether such 'credit' on the account is included in the motion.
7. Movant, as is their right, has apparently decided to ignore both the hardships endured over the last 18 months, not only by the debtor but by all of us, and proceed as though things are as they were and therefore debtor's default on the Note should be resolved with its Motion for Relief.
8. Movant has requested relief, despite the statement in its forbearance notices filed with the Court that 'Creditor and Debtor or Debtor's Counsel agree on an

appropriate repayment or loss mitigation program'. No communications regarding repayment plans or loss mitigation have been communicated to debtor or counsel.

9. Additionally, movant seeks costs and fees for this motion of \$1238 which is in addition to the 'costs and fees' of \$650 charged the debtor's account for 'plan review and proof of claim', which charges were not timely objected to by the debtor. Debtor does however, object to the fees and costs alleged in the motion for relief and demands strict proof of the rate and time counsel expended on its motion.

10. Should the Court find the motion is well taken and the costs and fees reasonable, pursuant to 11 U.S.C. 1329 debtor requests leave to file a modified plan curing the arrears as determined.

WHEREFORE debtor prays that the Motion be denied and the movant either comply with its notice of forbearance and decency and propose a plan to resolve the arrearage or if same is not forthcoming, that debtor may file a modified plan to be set for confirmation in resolution hereof.

Respectfully submitted
Verna Ndiaye

/s/H. Darden Hutson
VSB 29069
Fresh Start Law Office PLLC
4807 Hermitage Road #205
Richmond VA 23227
T 804 266 4680
F 866 455 1349
e hdhlaw@fslo.com

Certificate of Service

I certify that true and correct copies of the foregoing were mailed postage pre-paid or delivered Via ECF to:

The U.S. Trustee, the Trustee in this case, Pennymac Loan Services c/o BWW Law Group, LLC, 8100 Three Chopt Road, Ste 240, Richmond VA 23229 and all parties in interest this November 22, 2021

/s/H Darden Hutson